

**To:** Smith, Claudia[Smith.Claudia@epa.gov]; Nizich, Greg[Nizich.Greg@epa.gov]  
**Cc:** Doug Henderer[dhenderer@newfield.com]; Kirby Carroll[kcarroll@newfield.com]; Bob Hammer[bjhammer@newfield.com]  
**From:** Robert Eales  
**Sent:** Wed 9/7/2016 12:38:51 PM  
**Subject:** RE: [EXT] RE: EPA - Newfield Follow Up

Thanks Claudia, I will send out a meeting invite later today.

Rob

**Robert Eales**  
**Air Quality Specialist**  
Office: 281-847-6082  
Mobile: 303-885-5804



**From:** Smith, Claudia [mailto:Smith.Claudia@epa.gov]  
**Sent:** Tuesday, September 06, 2016 4:49 PM  
**To:** Robert Eales; Nizich, Greg  
**Cc:** Doug Henderer; Kirby Carroll; Bob Hammer  
**Subject:** Re: [EXT] RE: EPA - Newfield Follow Up

I am fairly open for a call early next week, generally more available in the morning and afternoon than mid-day (11- 1pm MT).

Thanks,

Claudia

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**From:** Robert Eales <[reales@newfield.com](mailto:reales@newfield.com)>  
**Sent:** Tuesday, September 6, 2016 3:35:45 PM  
**To:** Smith, Claudia; Nizich, Greg  
**Cc:** Doug Henderer; Kirby Carroll; Bob Hammer  
**Subject:** RE: [EXT] RE: EPA - Newfield Follow Up

Claudia and Greg,

We wanted to touch base and keep this conversation going. We were hoping to be able to circle up with you to go over the material below with added context over a conference call. Considering this is a short week with the holiday, what does your schedule look like early next week?

Rob

**Robert Eales**  
**Air Quality Specialist**  
Office: 281-847-6082  
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**From:** Smith, Claudia [<mailto:Smith.Claudia@epa.gov>]  
**Sent:** Friday, August 19, 2016 11:41 AM  
**To:** Robert Eales; Nizich, Greg  
**Cc:** Doug Henderer; Kirby Carroll; Bob Hammer  
**Subject:** [EXT] RE: EPA - Newfield Follow Up

Rob,

We've had an opportunity to do a more thorough review of the materials you submitted to demonstrate that another federal agency previously completed a review under ESA and NHPA for the proposed sources and have some additional thoughts. It is helpful that Newfield submitted this ahead of the effective date of the Oil and Natural Gas Indian Country FIP applicability so we can get a feel for what may come our way.

After a more thorough review, we have found that the submittals are sufficient for demonstration of prior NHPA review by another federal agency, but demonstration of prior ESA review by another federal agency falls a bit short.

The NHPA documents clearly show in only two letters that the reviews apply to the three specific Three Rivers Project well sites and the Utah SHPO concurrence is provided.

On the other hand something is missing regarding the ESA approval. While there are several ESA-related documents none clearly show that they apply specifically to the three proposed sources of the Three Rivers project we would be evaluating. It appears that Newfield just conducted the review for a very broad area, the Exploration and Development Agreement #1, but the documents are too general correlate the Three Rivers Project and the specific three well pads to EDA #1.

Specifically, the Section 7 Consultation conclusion of formal consultation, including the BO and concurrence from the US FWS covers the EDA #1. The US FWS – BIA Consultation Reinitiation documents do not clearly indicate the location where the review is being reinitiated. The FONSI ROD (4/21/2014) is for the EDA #1. The Request for Waiver (5/1/2015), Supplement to FONSI ROD (5/8/2015) and FONSI ROD (no date) are for the Three Rivers Project with no clear correlation to EDA #1.

The regulation text for the FIP was intentionally framed to avoid extraneous data dumps through which the EPA staff would have to expend a great deal of effort to figure out if the documents apply to a specific project.

Is there (or will there be) a final APD for each of those well pads that specifically

approves drilling and, more importantly, ties them to EDA #1? That would be very helpful in connecting the dots. Absent that, we think a third party would have a tough time determining whether the documentation satisfies 49.104(a)(1).

Please contact me if you have any questions.

Thanks,

Claudia

**From:** Smith, Claudia  
**Sent:** Thursday, July 28, 2016 11:16 AM  
**To:** 'Robert Eales' <[reales@newfield.com](mailto:reales@newfield.com)>; Nizich, Greg <[Nizich.Greg@epa.gov](mailto:Nizich.Greg@epa.gov)>  
**Cc:** Doug Henderer <[dhenderer@newfield.com](mailto:dhenderer@newfield.com)>; Kirby Carroll <[kcarroll@newfield.com](mailto:kcarroll@newfield.com)>; Bob Hammer <[bjhammer@newfield.com](mailto:bjhammer@newfield.com)>  
**Subject:** RE: EPA - Newfield Follow Up

Rob,

Thank you for the summary of our discussion. I have inserted responses to your questions and requests for confirmation in red font below. Please contact me if you have further questions.

Thanks,

Claudia

**From:** Robert Eales [<mailto:reales@newfield.com>]

**Sent:** Wednesday, July 27, 2016 11:40 AM

**To:** Smith, Claudia <[Smith.Claudia@epa.gov](mailto:Smith.Claudia@epa.gov)>; Nizich, Greg <[Nizich.Greg@epa.gov](mailto:Nizich.Greg@epa.gov)>

**Cc:** Doug Henderer <[dhenderer@newfield.com](mailto:dhenderer@newfield.com)>; Kirby Carroll <[kcarroll@newfield.com](mailto:kcarroll@newfield.com)>; Bob Hammer <[bjhammer@newfield.com](mailto:bjhammer@newfield.com)>

**Subject:** EPA - Newfield Follow Up

Claudia and Greg,

We appreciate your time on Tuesday to discuss Newfield's development projects in the Uinta Basin. I wanted to send a follow up email to summarize the discussion and share our understanding of what was discussed.

Newfield submitted three Part 1 Registration Forms for locations we understand to be in Indian Country. (Ute Tribal 1-19-4-3E, Ute Tribal 6-19-4-3E, Ute Tribal 14-29-4-3E).

We understand that EPA will provide verification that these 3 locations are within Indian Country. Additionally, we may submit latitudes/longitudes for future proposed new facilities to EPA for verification of jurisdiction going forward. [I will send the coordinates to our Regional Counsel to verify jurisdiction and will get back to you separately when I get a response.]

In addition to the Part 1 Registrations Forms, Newfield submitted consultation documentation demonstrating that we have met criteria "D" with respect to Threatened or Endangered Species and "No Historic Properties Affected and No Adverse Effects" for Historic Properties. Since Newfield has gone through the formal consultation process with the respective federal agencies, we understand that our consultation requirements under this rule are:

We understand that after the Oct. 3 applicability date, a company may submit a Part 1 Registration Form and consultation documentation; provided box "D" is checked and the supporting consultation document is included, the company may move forward with construction **without** confirmation from the EPA.

[According to 40 CFR 49.104(a)(1) – see attached FR Notice – where there was prior completion of the assessment by another federal agency, the owner/operator shall submit valid documentation to the EPA Regional Office demonstrating that prior ESA/NHPA compliance has been completed by another federal agency as an attachment to the Part 1 registration form. It is not necessary to include the screening form and check box “D” if you meet the qualifications of 49.104(a)(1) and no written confirmation is required on the part of the reviewing authority (EPA or approved/delegated Tribe) before construction can commence. **Based on the three registrations you submitted, the draft submittals for those sources sufficiently comply with section 49.104(a)(1).**

On the other hand, section 49.104(a)(2), where the consultation screening procedures are completed by the owner/operator (i.e. there was no prior completion of ESA/NHPA assessments by another federal agency), requires that the owner/operator submit documentation to the permitting authority demonstrating that it has completed the screening procedures specified for TES species and historic properties (screening form) and receive written confirmation from the reviewing authority saying it has satisfactorily completed the screening procedures. In these cases the reviewing authority will provide a determination within 30 days of receiving the documentation. This must occur prior to submitting the Part 1 Registration Form.]

We understand that the Federal Implementation Plan for oil and gas is planned to be used in the Uinta Basin for the foreseeable future for true minor sources after the October 3, 2016 applicability date. To date, there is no plans to have a reservation specific FIP for **new sources**.

[Correct. Development of a reservation-specific FIP for new sources would only be necessary in the case of a certain pending nonattainment designation. We will continue to reevaluate this possibility and necessity].

We would appreciate your concurrence of these notes or clarification on anything here that may be incorrect or need additional details. Additionally, would you please advise as to how future applications Newfield may submit prior to the October 3 effective date of the rule will be processed.

[For construction occurring prior to October 3, 2016, you will continue to register true minor new or modified sources under the existing source registration program within 90 days of the start of production. For construction to occur on or after October 3, 2016, if there is a prior ESA/NHPA assessment completed by another federal agency that meets the requirements of 40

CFR 49.104(a)(1), you would submit the Part 1 Registration Form within 30 days prior to beginning construction of the true minor new or modified source. Otherwise, if you are completing the assessment, you will submit documentation demonstrating completion of the ESA/NHPA screening procedures according to 40 CFR 49.104(a)(2), and wait for Region verification the screening procedures have been completed (up to 30 days) prior to submitting the Part 1 Registration Form for the new or modified true minor source.]

Once again, we appreciate your time and attention to our projects and look forward to working with you on these and other projects in the future.

Rob

**Robert Eales**

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